IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 8 of 2004 (M/B)

Ravi Bangia ..... Petitioner

Versus

Union Bank of India & another ..... Respondents

Hon. P.C.Verma, A.C.J.
Hon. Rajesh Tandon J.

Heard Mr. Sharad Sharma i/b Mr. Arvind Vashisth, learned counsel for the petitioner and Mr. B.S. Khanka, learned counsel for respondents.

This writ petition has been filed by the petitioner seeking a writ of certiorari to quash the order date 9.10.2003 issued by the Union Bank of India to the petitioner under section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. By the impugned order, the petitioner has been required to deposit the amount shown in the order.

Learned counsel for the petitioner submitted that the petitioner is willing to deposit the said amount, but he seeks for fixation of instalments only.

Sub-section 5 of section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 reads as under:

> "13(5) Any payment made by any person referred to in clause (d) of sub-section (4) to the secured creditor shall give such person a valid discharge as if he has made payment to the borrower."

Since, the petitioner has filed the present writ petition only for fixation of the instalments and has not challenged the validity of the order, therefore, it is open for the petitioner to approach the Authorities for fixing of instalments, which shall be considered by the respondents sympathetically and the amount offered to be deposited immediately by the petitioner shall be accepted and some more time for deposit may be considered to be given to the petitioner for depositing the rest of the amount.

Till the application of the petitioner is not considered under sub-section 5 of section 13 of the Securitization Act, no coercive method shall be taken against the petitioner.

Subject to above, the writ petition is dismissed. No order as to costs.

(Rajesh Tandon J.) **(P.C.Verma, A.C.J.)**

Dt. 11.03.2004.
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Since, the petitioner have come only for fixation of the instalments and have not challenged the validity of the order, therefore, it is open for the petitioner to approach the Authorities for fixing of the instalments, which shall be considered by the respondents sympathetically and the amount offered to be deposited immediately by the petitioner shall be accepted and some more time for deposit may be considered to be given to the petitioner for depositing the rest of the amount. Till the application of the petitioner is not considered under sub-section 5 of section 13 of the Securitization Act, no coercive method shall be taken against the petitioner.

Subject to above, the writ petition is dismissed. No order as to costs.

(Rajesh Tandon J.) **(P.C.Verma, A.C.J.)**

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